STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1278

State of Minnesota,
Respondent,

vs.

Chaz Elijah Moore,
Appellant.

Filed September 7, 2021
Affirmed
Connolly, Judge

Olmsted County District Court
File No. 55-CR-17-6403

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Mark A. Ostrem, Olmsted County Attorney, James E. Haase, Assistant County Attorney, Rochester, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Steven P. Russett, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Reyes, Judge; and Florey, Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant challenges his convictions of first-degree manslaughter and first-degree assault, arguing that the first-degree manslaughter conviction must be reversed because the

statute defining that crime does not apply to the facts of his case and the state failed to establish causation and the first-degree assault conviction must be reversed because the district court erred when instructing the jury. Appellant also argues that he was denied the right to a public trial. Because the relevant statute does apply and the state did establish causation relevant to appellant's manslaughter conviction, the jury was not erroneously instructed on the assault conviction, and appellant's right to a public trial was not violated, we affirm.

FACTS

In March 2017, appellant Chaz Elijah Moore and C.S. learned that they were expecting a child. C.S. attended routine prenatal care appointments and her pregnancy progressed without complications. She and appellant separated and began living apart in July 2017, but they remained in contact through electronic communication. On September 19, 2017, C.S. sent appellant a message complaining of abdominal pain, but she did not seek medical attention. On September 21, 2017, at approximately 2:30 a.m., C.S. googled "26 weeks pregnant, light cramping, wet legs" while she was working her overnight shift as a nursing assistant. After her shift, she drove home and went to bed.

When C.S. woke up around 10:30 that morning, she discovered appellant in her bathroom, looking through the text messages on her phone. He then entered C.S.'s bedroom and they began arguing. According to both appellant's and C.S.'s testimony, he smashed her phone on the bed frame, grabbed her upper arms with enough force to cause bruising, and pushed her backwards onto her bed. Before leaving C.S.'s home, appellant knocked over a couch and a nightstand.

C.S. felt pain in her abdomen approximately five minutes after appellant left. She then discovered severe vaginal bleeding and drove herself to the emergency room. Her symptoms included profuse bleeding and a decreased fetal heartbeat, leading doctors to suspect that she had suffered a placental abruption that endangered her life and that of her unborn baby. Dr. A.T. performed an emergency Caesarean section at 12:39 p.m. and delivered the baby, whom C.S. named A. During the operation, Dr. A.T. observed that C.S. had suffered an "acute placental abruption."[1]

A. weighed just over two pounds and was immediately transferred to the neonatal intensive care unit where she received treatment for complications resulting from her extreme prematurity. On September 24, 2017, A. was taken off life support and died. Dr. R.R., the chief medical examiner, performed an autopsy on A. and determined that she had died from "[c]omplications of prematurity due to placental abruption and. . . retroplacental hematoma [blood clot] caused by blunt force injury." Dr. R.R. further testified that the "blunt force injury" was C.S. falling backwards onto her bed. Dr. A.C., a gynecological pathologist, subsequently examined C.S.'s placenta and histological slides of the placenta and concluded that the blood clot had permeated "approximately 75 percent of the entire placenta itself."

The state charged appellant with first-degree assault, third-degree assault, and domestic assault—harm against C.S.; first-degree manslaughter against A.; and assault of

[1] A placental abruption occurs when the placenta separates from the uterine wall. In this context, "acute" refers to the timing of the event and indicates that it was recent, as opposed to "chronic" or old.

an unborn child in the first degree and the second degree. Appellant moved to dismiss the first-degree manslaughter charge, arguing that the statute did not apply because appellant assaulted C.S., not A., and that the state's evidence did not show the assault "caused" A.'s death. Appellant also moved to dismiss the first-degree assault charges, arguing that there was no probable cause he "inflicted" great bodily harm on C.S. and A. The district court denied appellant's motions to dismiss.

At the pretrial hearing, the district court decided to provide potential jurors with a questionnaire. When the district court asked what kind of questions should be included, appellant's counsel replied, "[I]t's important to find out if we have jurors who have dealt with the loss of a child … [or with] domestic assaults or any kind of assaults against them or any family members"; he then asked if he could submit questions. The district court explained that the material included in a questionnaire is "stuff that's, you know, very personal. That you don't want to necessarily describe in a room full of strangers." The district court also stated that "the use of a questionnaire [is] something that is precedent to individualized questioning." At no point did appellant object to—or raise any concern about the private questioning of jurors that the district court gave as the reason for the questionnaire.

As jury selection began, the district court explained the process for questioning jurors who either answered the questions regarding the loss of children and domestic assault in the affirmative or said on the questionnaire that they would like to speak privately with the judge and the lawyers. The district court asked whether counsel for both parties

"[saw] anything wrong with" the proposed procedure and whether there was "anything else" on the topic, and appellant's counsel said: "No, your [H]onor. Thank you."

The district court then closed the courtroom to the public to question jurors concerning their experiences with loss of children or domestic assault. All discussions were placed on the record. Both parties were present, with counsel. After some brief discussion of administrative matters, the courtroom closure ended.

C.S. and appellant testified at trial and elicited testimony from expert witnesses. All the experts concluded that C.S. suffered a placental abruption and that A. died as a result of the complications arising from the placental abruption, but the state's expert witnesses testified that the placental abruption was acute, or recent, while the defense expert witness testified that the placental abruption was at a day or two old.

The jury found appellant guilty on all counts. The district court sentenced him to 94 months in prison on the charge of first-degree manslaughter of A. and to a concurrent 86 months in prison on the count of first-degree assault of C.S.[2]

Appellant challenges the convictions on which he was sentenced, arguing that the first-degree manslaughter statute, Minn. Stat. § 609.20(2) (2016), does not apply here, that the state did not prove the assault was a substantial causal factor of A.'s death, that he was denied his right to a public trial when the courtroom was closed for the questioning of the jurors, and that the district court erred in providing a definition of "inflict" in the jury instruction on first-degree assault.

[2] Appellant was not sentenced on the other counts because they were lesser-included offenses.

DECISION

I. Minn. Stat. § 609.20(2) is applicable to an individual who assaults a pregnant woman and causes the death of a subsequently born child.

Whether a defendant's conduct meets the definition of a particular offense presents a question of statutory interpretation that is reviewed de novo. *See, e.g.*, *State v. Hayes*, 826 N.W.2d 799, 803 (Minn. 2013). "The first step in statutory interpretation is to determine whether the statute's language, on its face, is ambiguous. In determining whether a statute is ambiguous, we will construe the statute's words and phrases according to their plain and ordinary meaning." *Christianson v. Henke*, 831 N.W.2d 532, 536-37 (Minn. 2013) (quotations and citation omitted).

Appellant was convicted and sentenced on the charge of first-degree manslaughter of A. Minn. Stat. § 609.224 (2016) provides that "[w]hoever . . . (1) commits an act with intent to cause fear in another of immediate bodily harm or death; or (2) intentionally inflicts or attempts to inflict bodily harm upon another" is guilty of fifth-degree assault. Minn. Stat. § 609.20(2) provides that whoever "violates section 609.224 and causes the death of another" is guilty of manslaughter in the first-degree. The district court rejected appellant's argument that first-degree manslaughter occurs only when the person assaulted dies and determined that the word "another" in the phrase "causes the death of another" may include a person other than the victim of the assault.

Appellant argues that "the district court's interpretation of the manslaughter statute is contrary to the statute's plain language." Specifically, appellant argues that the district court erred in concluding that the word "another" includes persons other than the victim of

the assault. To determine whether the statute is ambiguous, this court must "construe the statute's words and phrases according to their plain and ordinary meaning." *Henke*, 831 N.W.2d at 536-37.

The term "another" is defined as something or someone "distinctly different from the first." *The American Heritage Dictionary of the English Language* 74 (5th ed. 2018). As used in the first-degree manslaughter statute, the word "another" necessarily refers to someone who is not the perpetrator. Appellant's argument that the word "another" refers *only* to the victim of the assault is contrary to the plain meaning of the word. The statute is unambiguous; therefore, "our role is to enforce the language of the statute." *Henke*, 831 N.W.2d at 537. We conclude that appellant was properly charged and convicted under Minn. Stat. § 609.20(2).

II. The state proved that appellant's assault on C.S. was a substantial causal factor in A.'s death.

Circumstantial evidence is defined as "evidence from which the factfinder can infer whether the facts in dispute existed or did not exist." *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017) (quotation omitted). "When the direct evidence of guilt on a particular element is not alone sufficient to sustain the verdict," this court applies a two-step circumstantial-evidence standard of review. *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017).

First, the court identifies the circumstances proved, with deference "to the jury's acceptance of the proof of these circumstances and rejection of evidence in the record that conflicted with the circumstances proved by the State." *State v. Andersen*, 784 N.W.2d

320, 329 (Minn. 2010) (quotation omitted). The reviewing court "construe[s] conflicting evidence in the light most favorable to the verdict and assume[s] that the jury believed the State's witnesses and disbelieved the defense witnesses." *State v. Tscheu*, 758 N.W.2d 849, 858 (Minn. 2008). The second step requires this court to "determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis except that of guilt, not simply whether the inferences that point to guilt are reasonable." *State v. Silvernail*, 831 N.W.2d 594, 599 (Minn. 2013) (quotations omitted).

Appellant argues that there is a rational hypothesis inconsistent with guilt because his expert witness, Dr. J.A., testified that, based on his examination of the histological slides of C.S.'s placenta, the placental abruption was not acute but was at least one to two days old and therefore could have occurred before the assault.

But the state's expert witnesses also testified about when C.S.'s placental abruption probably occurred. Dr. A.T., who delivered A., testified that the placental abruption was acute, based on her observations before, during, and after the delivery. She testified that, due to the rapid progression of both C.S.'s and A.'s conditions when they were admitted to the hospital, C.S.'s laboratory studies were indicative of "this being . . . a very acute process" and it was "very unlikely [C.S.] and [A.] would have survived intact if this had been going on for days."

Dr. R.R., who conducted an autopsy on A., determined the manner of death to be homicide "[b]ecause what initiated the sequence of events that led to the death was due to another individual." Like Dr. A.T., Dr. R.R. testified that C.S. and A. could not have survived such a severe placental abruption for multiple days. Dr. R.R. further explained

that appellant's assault on C.S. was a "blunt force injury" and that this type of injury can cause a placental abruption; when he was asked, "[t]o a degree of reasonable medical certainty, can you say that the assault by [appellant] caused [C.S.'s] acute placental abruption?" Dr. R.R. answered, "Yes." We must assume that the jury believed the state's witnesses, Dr. A.T. and Dr. R.R., and disbelieved the defense witness, Dr. J.A. *See Tscheu*, 758 N.W.2d at 858.

Appellant in his brief argues that, even if the circumstances proved are consistent with his guilt, the state's evidence "do[es] not preclude the possibility" that C.S. had a concealed placental abruption at the time of the assault, and all the doctors who testified agreed that placental abruptions can occur without the mother's knowledge and that even mild trauma can cause a placental abruption. We disagree with appellant's argument. We must assume that the jury rejected appellant's version of events because that version is inconsistent with its guilty verdict. *See State v. Hawes*, 801 N.W.2d 659, 670-71 (Minn. 2011) (declining to consider appellant's testimony in which he denied involvement in the crime because it conflicted with the state's evidence supporting a guilty verdict).

The state proved that C.S. and A. could not have survived such a severe placental abruption if it occurred prior to the assault and that the assault committed by appellant on C.S. is the type of injury that can cause a placental abruption. Therefore, the state established beyond a reasonable doubt that appellant's assault was a substantial causal factor in the death of A.S.

III. Appellant's right to a public trial was not violated by the brief closure of the courtroom.

The right to a public trial is guaranteed by the U.S. Constitution and the Minnesota Constitution: "In all criminal prosecutions, the accused shall enjoy the right to a . . . public trial…." U.S. Const. amend VI; Minn. Const. art. I, § 6.

The question of whether the closure of a courtroom violates the right to a public trial is a constitutional issue that this court reviews de novo. *State v. Brown*, 815 N.W.2d 609, 616 (Minn. 2012). A violation of the right to a public trial is generally considered a structural error that is not amenable to harmless-error review. *State v. Bobo*, 770 N.W.2d 129, 139 (Minn. 2009).

But as a general rule, under the invited-error doctrine, "a party cannot assert on appeal an error that he invited or that could have been prevented at the district court." *State v. Carridine*, 812 N.W.2d 130, 142 (Minn. 2012). This rule "discourage[s] litigants from intentionally creating appealable issues." *State v. Gisege*, 561 N.W.2d 152, 159 (Minn. 1997). The invited-error doctrine has been applied to courtroom closures. *See, e.g.*, *State v. Weigold*, 160 N.W.2d 577, 579-80 (Minn. 1968) (holding that failure of the accused to give express consent to clearing the courtroom did not result in violation of his right to a public trial).[3]

[3] We note, however, that "the invited-error doctrine does not require us to turn a blind eye to errors that seriously affect the fairness, integrity, or public reputation of judicial proceedings. . . . [W]e have the discretionary authority to remedy errors that seriously affect the fairness, integrity or public reputation of judicial proceedings, even when the defendant invited the error." *State v. Benton*, 858 N.W.2d 535, 540 (Minn. 2015); *see also Gisege*, 561 N.W.2d at 158 n.5 (rejecting the state's argument that the invited-error

Here, appellant argues that his right to a public trial was violated when the district court closed the courtroom for a portion of jury voir dire. But appellant invited that closure. Appellant's counsel knew that the district court would question jurors in private, requested that the questionnaire inquire about the loss of children and domestic abuse, suggested submitting his own questions, and replied in the negative when the district court asked the parties if there was any problem or "anything else" on the topic.

Having agreed to the district court's private questioning of the jurors because of the personal nature of the topics, appellant cannot now claim he was denied a public trial because the jurors were questioned privately in a closed courtroom.

Moreover, "the right to a public trial is not an absolute right." *State v. Taylor*, 869 N.W.2d 1, 10 (Minn. 2015). The Supreme Court has set out four criteria for a courtroom closure to be justified:

> [1] [T]he party seeking to close the hearing must advance an overriding interest that is likely to be prejudiced, [2] the closure is no broader than necessary to protect that interest, [3] the trial court must consider reasonable alternatives to closing the proceeding, and [4] it must make findings adequate to support the closure.

Waller v. Georgia, 467 U.S. 39, 48 (1984).

The district court's order reflects its consideration of each factor. First, it found "a substantial likelihood that conducting voir dire on these sensitive, personal topics in open court would interfere with . . . [appellant's] right to a fair trial and prospective jurors

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doctrine prohibits the court from reviewing all errors, even those that would merit relief under plain-error review).

legitimate privacy interest in not disclosing deeply personal matters to the public." Second, it tailored a procedure just broad enough to protect those interests: jurors filled out confidential questionnaires "narrowly addressing the subject matter" and were then questioned on the record, with parties and counsel present, in a location closed to the public.

Third, the district court considered and rejected the alternatives.

> [O]rdering that personal juror information heard in voir dire be kept confidential by all courtroom observors; that juror names or other identifying information not be used or disclosed in the selection process; cautioning jurors that what is said and heard in voir dire is not evidence; or similar remedial measures are impractical and ineffective for such purposes. Such measures would not prevent or undo public disclosure of personal juror information; would not encourage prospective jurors to reveal sensitive information relevant to their fitness to serve; nor prevent individual jurors' disturbing or inflammatory public revelations from prejudicing other members of the panel.

Finally, the district court's order itself provides "findings adequate to support the closure."

Appellant also argues that, even if the private questioning of jurors was justified, the discussion of administrative issues during the closure violated his right to a public trial: the closure was "broader than necessary" because the administrative issues were outside the scope of sensitive matters. We are not persuaded by this argument. The right to a public trial does not extend to a district court's discussion of administrative issues, like scheduling or other matters typically dealt with at a private bench conference or in chambers. *State v. Smith*, 876 N.W.2d 310, 329-30 (Minn. 2016) (holding that a nonpublic proceeding "on an issue of evidentiary boundaries, similar to what would ordinarily and regularly be discussed in chambers or at a sidebar conference," did not implicate the defendant's right to a public trial).

Smith was recently distinguished by *State v. Jackson*, ___ N.W.2d ___, ___, 2021 WL 3027204, at *4-5 (Minn. July 19, 2021) (concluding that the right to a public trial, in this case part of a *Schwartz* hearing, was violated because at least two of the *Waller* requirements for the closing of a courtroom were not met). *Jackson* is distinguishable: here, all the *Waller* requirements were met.

We see no error in the application of either the invited-error doctrine or the *Waller* factors to the determination that appellant's right to a public trial was not violated.

IV. The district court did not err by using the Minnesota Supreme Court's definition of "inflict" in the jury instructions.

Because appellant objected to a portion of the instruction on the first-degree assault charge, he did not waive appellate review of it, and "[w]e review a district court's jury instructions for an abuse of discretion." *State v. Stay*, 935 N.W.2d 428, 430 (Minn. 2019). "While district courts have broad discretion to formulate appropriate jury instructions, a district court abuses its discretion if the jury instructions confuse, mislead, or materially misstate the law." *Taylor*, 869 N.W.2d at 14-15. "The [Supreme] Court held that the harmless-error analysis applies to cases involving improper jury instructions . . . ." *State v. Watkins*, 840 N.W.2d 21, 26 (Minn. 2013) (citing *Neder v. United States*, 527 U.S. 1, 15 (1999)).

After instructing the jury on the first-degree assault statute, Minn. Stat. § 609.221, subd. 1 (2016), that "[t]he term assault means the intentional infliction of bodily harm upon another," the district court, over appellant's objection, instructed the jury that "[t]o inflict

means to lay a blow on or cause something damaging or painful to be endured."[4] The district court then instructed the jury on the first-degree manslaughter statute, Minn. Stat. § 609.20(2), that "[t]o cause the death means to be a substantial causal factor in causing the death." Appellant argues that the district court erred when instructing the jury on the first-degree assault charges because the instructions "likely confused and misled jurors to believe that 'inflict' in the assault charges meant the same as 'cause' in the manslaughter statute and was satisfied if [appellant's] assault of C.S. was 'a substantial causal factor' rather than the 'direct cause' of C.S.'s and [A.]'s injuries." But the phrase to which appellant objects, that "inflict" means "cause something damaging or painful to be endured," was taken from a Minnesota Supreme Court case; it was not a misstatement of the law. Moreover, when a court is defining the crime charged for a jury, "it is desirable for the court to explain the elements of the offense rather than simply to read statutes." *State v. Kuhnau*, 622 N.W.2d 552, 556 (Minn. 2001). The district court's explanation of "inflict" was not an abuse of discretion.

Even if this court concluded that it was error for the district court to provide the supreme court's definition of "inflict," appellant is not entitled to a new trial because he cannot establish that the error substantially influenced the jury's verdict as required under the harmless-error analysis. *See id.* at 558-59 ("Though erroneous, [a] mistaken instruction may not require a new trial if the error was harmless. An error in jury instructions is not

[4] This language comes from *State v. Dorn*, 887 N.W.2d 826, 832 (Minn. 2016) ("'Inflict' means 'to lay (a blow) on' or 'cause (something damaging or painful) to be endured.'") (quoting *Webster's Third New International Dictionary* 1160 (2002)).

harmless and a new trial should be granted if it cannot be said beyond a reasonable doubt that the error had no significant impact on the verdict.")) The jury found appellant guilty after several days of expert testimony on placental abruptions and his own testimony that he grabbed C.S. with enough force to cause bruising and he pushed her backwards onto her bed. It can be said beyond a reasonable doubt that any error in the jury instructions had no significant impact on the verdict. *See id.*

Affirmed.